

REMARKS

The Final Office Action of March 17, 2010, has been received and reviewed. Claims 1 through 26 are currently pending in the application. Claims 1 through 26 stand rejected. Applicants have amended claims 1, 17, 20, and 25, added new claims 27 and 28, and respectfully request reconsideration of the application amended herein.

Support for the amendments is found in the as-filed specification at least at paragraphs [0004] and FIGS. 1, 2, and 13.

35 U.S.C. § 101 Non-Statutory Subject Matter Rejection

Claims 1 through 26 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse this rejection, as hereinafter set forth.

The four independent categories of patent-eligible subject matter include processes, machines, manufactures, and compositions of matter. 35 U.S.C. § 101 (2006). These categories of patentable inventions are expansive and should “be given wide scope.” *Diamond v. Chakrabarty*, 447 U.S. 303, 308 (1980). Three judicially created categories, however, provide specific exceptions to patent-eligible subject matter’s broad reach; “laws of nature, physical phenomena, and abstract ideas” are not patentable. *Id.* at 309. When considering whether a “process” is patent-eligible, determining whether “(1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing” can be a useful and important investigative tool. *Bilski v. Kappos*, 130 S. Ct. 3218, 3225-27 (2010). The “machine-or-transformation test,” however, “is not the sole test for deciding whether an invention is a patent-eligible ‘process.’” *Id.* An abstract idea that has been practically applied may also constitute patent eligible subject matter. *Interim Guidance for Determining Subject Matter Eligibility for Process Claims in View of Bilski v. Kappos (July 2010 Interim Instructions)*.

For example, a claim is directed to patent-eligible subject matter when it includes the practical application of laws of nature in a way that meaningfully limits the process’ execution. *Compare Gottschalk v. Benson*, 409 U.S. 63, 71-72 (1972) (holding unpatentable a process for converting binary-coded decimal numerals to pure binary code because it was an abstract idea),

and *Parker v. Flook*, 437 U.S. 584, 589-90 (1978) (holding unpatentable a process for monitoring conditions during catalytic conversion because the only innovation in the claim was an algorithm, which was coupled with mere insignificant post-solution activity), with *Diamond v. Diehr*, 450 U.S. 175, 187, 192-93 (1981) (holding patentable a process for molding rubber because it included the practical application of a mathematical formula to an industrial process). Likewise, a claim is directed to patent-eligible subject matter when it describes a particular solution to a problem, implemented in a tangible way, the performance of which is observable and verifiable. See *Diehr*, 450 U.S. at 187, 192-93.

The method of claim 1 is patent eligible subject matter because claim 1 is more than a mere statement of a concept. Claim 1 provides a method of playing of playing a pari-mutuel wagering game which provides players an opportunity to specify an odds level of a plurality of progressive odds levels at which the wager is accepted wherein the odds level is unrelated to the wager amount. Accordingly, the method of claim 1 provides players with a higher degree of payout predictability than conventional pari-mutuel wagering and requires the distribution of such payouts. See paragraph [0032] of the as-filed specification. Additionally, claim 1 recites, in part, “recording an amount of each game participant’s wager and the specified odds level accepted for each wager.” The act of recording requires a tangible documentation of each game participant’s wager and the specified odds level accepted for each wager. Such recording is also both observable and verifiable. Additionally, claim 1 recites, in part, “distributing, from the pari-mutuel wagering pool, an appropriate payout to each winning game participant.” Distributing payouts requires a transfer of tangible funds to the winning game participant. Such distribution is also both observable and verifiable. Because claim 1 is not directed to a general concept, and, therefore, is not directed to an abstract idea, claim 1 is patent eligible subject matter.

Thus, Applicants respectfully assert that claim 1 is directed to statutory subject matter, and request that the Examiner withdraw the rejection of claim 1 under 35 U.S.C. § 101.

Regarding claims 2 through 16, these claims depend from claim 1. Therefore, Applicants assert that claims 2 through 16 are also directed to statutory subject matter and respectfully request that the 35 U.S.C. § 101 rejection be withdrawn.

The method of claim 17 is patent eligible subject matter because claim 17 is more than a mere statement of a concept. Claim 17 provides a method of playing of playing a pari-mutuel wagering game which includes specifying odds at which the wager is accepted. Accordingly, the method of claim 17 provides players with a higher degree of payout predictability than conventional pari-mutuel wagering and requires the receipt by the player of such payouts. See paragraph [0032] of the as-filed specification. Additionally, claim 17 recites, in part, “placing a wager having a wager amount on at least one outcome of a plurality of potential outcomes for an event, the wager being placed in a pari-mutuel wagering pool.” The act of placing the wager in a pari-mutuel wagering pool requires a tangible formation of the pari-mutuel wagering pool including the wager amounts of the wager. Such placing of the wager in the pari-mutuel wagering pool is also both observable and verifiable. Additionally, claim 17 recites, in part, “if the at least one outcome is a winning outcome, receiving an appropriate payout.” Receiving an appropriate payout requires a transfer of tangible funds to the winning game participant. Such receipt of funds is also both observable and verifiable. Because claim 17 is not directed to a general concept, and, therefore, is not directed to an abstract idea, claim 17 is patent eligible subject matter.

Thus, Applicants respectfully assert that claim 17 is directed to statutory subject matter, and request that the Examiner withdraw the rejection of claim 17 under 35 U.S.C. § 101.

Regarding claims 18 and 19, these claims depend from claim 17. Therefore, Applicants assert that claims 18 and 19 are also directed to statutory subject matter and respectfully request that the 35 U.S.C. § 101 rejection be withdrawn.

The method of claim 20 is patent eligible subject matter because claim 20 is more than a mere statement of a concept. Claim 20 recites, in part, “forming a pari-mutuel wagering pool comprising funds received for each share purchased at the initial share price and the adjusted share price.” The act of forming a pari-mutuel wagering pool requires a tangible formation of the pari-mutuel wagering pool. In addition, the funds must be tangibly received for each share purchased. Such formation of the pari-mutuel wagering pool and the receiving of funds for each share purchased are also both observable and verifiable. Additionally, claim 20 recites, in part, “distributing, from the pari-mutuel wagering pool, an appropriate payout to each game

participant that purchased at least one share in favor of the at least one winning outcome.” Distributing an appropriate payout requires a transfer of tangible funds to each game participant that purchased the at least one share in favor of the at least one winning outcome. Such distribution of funds is also both observable and verifiable. Because claim 20 is not directed to a general concept, and, therefore, is not directed to an abstract idea, claim 20 is patent eligible subject matter.

Thus, Applicants respectfully assert that claim 20 is directed to statutory subject matter, and request that the Examiner withdraw the rejection of claim 20 under 35 U.S.C. § 101.

Regarding claims 21 through 24, these claims depend from claim 20. Therefore, Applicants assert that claims 21 through 24 are also directed to statutory subject matter and respectfully request that the 35 U.S.C. § 101 rejection be withdrawn.

The method of claim 25 is patent eligible subject matter because claim 25 is more than a mere statement of a concept. Claim 25 recites, in part, “purchasing at least one share in favor of a particular outcome of a plurality of potential outcomes for an event at a share price, the share price comprising one of an initial share price set prior to making the at least one share available for purchase and an adjusted share price set after the initial share price is set, wherein the at least one purchase share is non-redeemable prior to the outcome of the event; and placing funds for each share purchased in a pari-mutuel wagering pool.” The act of purchasing at least one share in favor of a particular outcome requires a tangible transfer of funds to make the purchase. Additionally, the act of placing funds for each share purchased in a pari-mutuel wagering pool requires a tangible formation of the pari-mutuel wagering pool and the placement of the funds therein. Such purchasing of at least one share and placing funds for each share purchase in a pari-mutuel wagering pool are also both observable and verifiable. Additionally, claim 25 recites, in part, “if the particular outcome in favor of which the at least one share was purchased is a winning outcome, receiving an appropriate payout.” Receiving an appropriate payout requires a transfer of tangible funds to a game participant that purchased the at least one share in favor of the winning outcome. Such receiving of funds is also both observable and verifiable. Because claim 25 is not directed to a general concept, and, therefore, is not directed to an abstract idea, claim 25 is patent eligible subject matter.

Thus, Applicants respectfully assert that claim 25 is directed to statutory subject matter, and request that the Examiner withdraw the rejection of claim 25 under 35 U.S.C. § 101.

Regarding claim 26, this claim depends from claim 25. Therefore, Applicants assert that claim 26 is also directed to statutory subject matter and respectfully request that the 35 U.S.C. § 101 rejection be withdrawn.

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on U.S. Patent No. 6,634,946 to Bridgeman et al. in View of U.S. Patent No. 5,275,400 to Weingardt et al.

Claims 1 through 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,634,946 to Bridgeman et al. (hereinafter “Bridgeman”) in view of U.S. Patent No. 5,275,400 to Weingardt et al. (hereinafter “Weingardt”). Applicants respectfully traverse this rejection, as hereinafter set forth.

To establish a *prima facie* case of obviousness the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 985 (CCPA 1974); *see also* MPEP § 2143.03. Additionally, the Examiner must determine whether there is “an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1740-1741, 167 L.Ed.2d 705, 75 USLW 4289, 82 U.S.P.Q.2d 1385 (2007). Further, rejections on obviousness grounds “cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.* at 1741, quoting *In re Kahn*, 441, F.3d 977, 988 (Fed. Cir. 2006). Finally, to establish a *prima facie* case of obviousness there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Furthermore, the reason that would have prompted the combination and the reasonable expectation of success must be found in the prior art, common knowledge, or the nature of the problem itself, and not based on the Applicant’s disclosure. *DyStar Textilfarben GmbH & Co. Deutschland KG v. C. H. Patrick Co.*, 464 F.3d 1356, 1367 (Fed. Cir. 2006); MPEP § 2144. Underlying the obvious determination is the fact that statutorily prohibited hindsight cannot be used. *KSR*, 127 S.Ct. at 1742; *DyStar*, 464 F.3d at 1367.

Applicants respectfully assert that the 35 U.S.C. § 103(a) obviousness rejections of claims 1 through 16 are improper because Bridgeman and Weingardt do not teach, suggest or otherwise make obvious each and every limitation of independent claim 1.

Bridgeman et al. is directed to pari-mutuel networks, devices and games. The games in Bridgeman et al. are configured with set pay tables. *Bridgeman et al.* at col. 3, lines 7-10. For example, a player pays a fee to start playing a game and accrued some number of credits 260. *Id.* col. 13, lines 31-32. After the player has bet 20 credits, the max win payout and the Royal Flush and Straight Flush payouts change to a value preset by the total number of credits bet by all players. *Id.* at col. 13, lines 37-47. Thus, the pay tables are not controlled by the player, and the player is not afforded the opportunity to place a wager and to specify an odds level at which the wager is accepted, as admitted by the Examiner at page 5 of the Office Action.

The Examiner relies on Weingardt as teaching such limitations. Weingardt teaches electronic gambling games in which players are competing against each other to win from a common pool and are not wagering against the house. *Weingardt* at Abstract. However, Weingardt specifically teaches that when a player selects which cards he wishes to hold and discard, the display screen 10 shows a probability chart 40 advising the player of the odds of achieving a particular winning hand based on the cards held and the payout odds the player would receive if a winning combination is achieved. *Id.* at col. 7, lines 36-43. Thus, the player is not afforded the opportunity to specify an odds level at which a wager is accepted, but rather the odds level is assigned based on the combination of cards.

The Examiner refers specifically to FIG. 5, which shows a payout schedule with progressive payouts at all levels. In the embodiment taught with reference to FIG. 5, the pari-mutuel payouts are disbursed to each coin column based on the number of coins deposited. *Id.* at col. 10, lines 1-5. However, even the progressive payout table taught by Weingardt fails to teach or suggest affording game participants an opportunity to place a wager of a desired amount and to specify an odds level at which the wager is accepted wherein the odds level is unrelated to the wager amount. Instead, Weingardt teaches the player places a wager of between 1 and 5 coins and is assigned an odds level for that wager based on the number of coins played (the desired amount of the wager). For example, a player in Weingardt can choose to place a wager of 4

coins, but that player is not afforded the opportunity to specify an odds level. Instead, the player placing a wager of 4 coins is assigned an odds level of 1,000 for a Royal Flush, 200 for a Straight Flush, 100 for a 4 of a kind, etc. Thus, Weingardt fails to remedy the deficiencies of Bridgeman. Furthermore, if one were to combine the teachings of Bridgeman and the teachings of Weingardt, the resulting method would include affording a plurality of game participants an opportunity to place a wager of a desired amount and an odds level would be assigned to the wager based on the wager amount.

Applicants assert that Bridgeman and Weingardt do not teach, suggest, or otherwise make obvious "affording a plurality of game participants an opportunity to place a wager of a desired amount on one or more of the plurality of potential outcomes and to specify an odds level of a plurality of progressive odds levels at which the wager is accepted wherein the odds level is unrelated to the wager amount," as recited in independent claim 1. Applicants, therefore, respectfully request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to claim 1.

Furthermore, the nonobviousness of independent claim 1 precludes a rejection of claims 2 through 16, which depend therefrom, because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicants request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to claims 2 through 16, in addition to the rejection to independent claim 1.

Applicants respectfully assert that the 35 U.S.C. § 103(a) obviousness rejections of claims 17 through 19 are improper because Bridgeman and Weingardt do not teach, suggest or otherwise make obvious each and every limitation of independent claim 17.

Bridgeman is directed to pari-mutuel networks, devices and games. The games in Bridgeman are configured with set pay tables. *Bridgeman* at col. 3, lines 7-10. For example, a player pays a fee to start playing a game and accrued some number of credits 260. *Id.* col. 13, lines 31-32. After the player has bet 20 credits, the max win payout and the Royal Flush and Straight Flush payouts change to a value preset by the total number of credits bet by all players. *Id.* at col. 13, lines 37-47. Thus, the pay tables are not controlled by the player, and Bridgeman

does not teach or suggest specifying, at the time the wager is placed, odds at which the wager is accepted, wherein the odds at which the wager is accepted are separate and distinct from the wager amount, as admitted by the Examiner at page 14 of the Office Action.

The Examiner relies on Weingardt as teaching such limitations. Weingardt teaches electronic gambling games in which players are competing against each other to win from a common pool and are not wagering against the house. *Weingardt* at Abstract. However, Weingardt specifically teaches that when a player selects which cards he wishes to hold and discard, the display screen 10 shows a probability chart 40 advising the player of the odds of achieving a particular winning hand based on the cards held and the payout odds the player would receive if a winning combination is achieved. *Id.* at col. 7, lines 36-43. Thus, the player is not afforded the opportunity to specify an odds at which a wager is accepted, wherein the odds at which the wager is accepted are separate and distinct from the wager amount, but rather the odds level is assigned based on the combination of cards.

The Examiner refers specifically to FIG. 5, which shows a payout schedule with progressive payouts at all levels. In the embodiment taught with reference to FIG. 5, the pari-mutuel payouts are disbursed to each coin column based on the number of coins deposited. *Id.* at col. 10, lines 1-5. However, even the progressive payout table taught by Weingardt fails to teach or suggest specifying, at the time the wager is placed, odds at which the wager is accepted, wherein the odds at which the wager is accepted are separate and distinct from the wager amount. Instead, Weingardt teaches the player places a wager of between 1 and 5 coins and is assigned an odds level for that wager based on the number of coins played (the wager amount). For example, a player in Weingardt can choose to place a wager of 4 coins, but that player is not afforded the opportunity to specify an odds level. Instead, the player placing a wager of 4 coins is assigned an odds level of 1,000 for a Royal Flush, 200 for a Straight Flush, 100 for a 4 of a kind, etc. Thus, Weingardt fails to remedy the deficiencies of Bridgeman. Furthermore, if one were to combine the teachings of Bridgeman and the teachings of Weingardt, the resulting method would include affording a plurality of game participants an opportunity to place a wager of a desired amount and an odds level would be assigned to the wager based on the wager amount.

Applicants assert that Bridgeman and Weingardt do not teach, suggest, or otherwise make obvious “specifying, at the time the wager is placed, odds at which the wager is accepted, wherein the odds at which the wager is accepted are separate and distinct from the wager amount,” as recited in independent claim 17. Applicants, therefore, respectfully request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to claim 17.

Furthermore, the nonobviousness of independent claim 17 precludes a rejection of claims 18 and 19, which depend therefrom, because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicants request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to claims 18 and 19, in addition to the rejection to independent claim 17.

New claim 27 is allowable for substantially the same reasons as claim 1.

Obviousness Rejection Based on U.S. Patent No. 7,302,412 to Speck in View of U.S. Patent No. 6,695,701 to Aronson et al.

Claims 20 through 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,301,412 to Speck (hereinafter “Speck”) in view of U.S. Patent No. 6,695,701 to Aronson et al. (hereinafter “Aronson”). Applicants respectfully traverse this rejection, as hereinafter set forth.

Claims 20 through 24

Applicants respectfully assert that the 35 U.S.C. § 103(a) obviousness rejections of claims 20 through 24 are improper because Speck and Aronson do not teach, suggest, or otherwise make obvious “affording the plurality of game participants an opportunity to purchase at least one share in favor of at least one outcome of the plurality of potential outcomes at the adjusted share price, wherein each share purchased at the initial share price and the adjusted share price is non-redeemable prior to the outcome for the event,” as recited in independent claim 20, as amended herein.

Speck teaches a method for reiterative betting based on supply and demand of betting shares. Speck teaches a highly mathematical method for determining a rate of return on a bet by

employing supply and demand forces. In general, investors may place wagers on one of a plurality of possible outcomes, and those investors receive shares in exchange and a value of each share is determined from the amount of money bet on each possible outcome. *Speck* at col. 3, lines 1-38. The betting process can be reiterated multiple times in which investors can purchase shares or redeem shares after the share value is determined, resulting in a new share value being calculated. *See, e.g., Id.* at cols. 7 and 8. As shown in FIG. 1, a leaving investor 24 may redeem shares for money prior to the outcome of the event. *Speck*, therefore, does not teach or suggest affording the plurality of game participants an opportunity to purchase at least one share in favor of at least one outcome of the plurality of potential outcomes at the adjusted share price, wherein each share purchased at the initial share price and the adjusted share price is non-redeemable prior to the outcome for the event, as recited in claim 20.

Aronson teaches systems and methods for providing fixed-odds and pari-mutuel wagering. A user is allowed to submit a wager to a fixed-odds book or a pari-mutuel pool using an interactive wagering application, or the user is provided with a conditional wagering option where a wager placed with a fixed-odds book that is refused is automatically placed with a pari-mutuel pool. *Aronson et al.* at Abstract; col. 21, lines 10 – col. 22, line 15. Aronson does not disclose the use of shares that can be purchased at a particular share price. Thus, Aronson does not teach or suggest affording the plurality of game participants an opportunity to purchase at least one share in favor of at least one outcome of the plurality of potential outcomes at the adjusted share price, wherein each share purchased at the initial share price and the adjusted share price is non-redeemable prior to the outcome for the event. Accordingly, Aronson fails to remedy the deficiencies of *Speck* with respect to at least independent claim 20 as amended herein.

Speck and Aronson also do not teach, suggest, or otherwise render obvious “forming a pari-mutuel wagering pool comprising funds received for each share purchased at the initial share price and the adjusted share price.” Rather, as previously discussed, *Speck* allows for shares to be redeemed for money prior to the outcome of the event. Accordingly, if one were to combine the reiterative betting method taught by *Speck* with a pari-mutuel wagering pool taught by Aronson, the resulting pari-mutuel wagering pool would not comprise funds received for each

share purchased at the initial share price and the adjusted share price because some of the funds received for shares purchased at the initial share price would be returned to the leaving investors.

Applicants respectfully assert that Speck and Aronson do not teach, suggest, or otherwise make obvious each and every element of independent claim 20. Applicants, therefore, respectfully request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to claim 20.

Furthermore, the nonobviousness of independent claim 20 precludes a rejection of claims 21 through 24, which depend therefrom, because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicants request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to claims 21 through 24, in addition to the rejection to independent claim 20.

Claims 25 and 26

Applicants respectfully assert that the 35 U.S.C. § 103(a) obviousness rejections of claims 25 and 26 are improper because Speck and Aronson do not teach, suggest, or otherwise make obvious “purchasing at least one share in favor of a particular outcome of a plurality of potential outcomes for an event at a share price, the share price comprising one of an initial share price set prior to making the at least one share available for purchase and an adjusted share price set after the initial share price is set, wherein the at least one purchased share is non-redeemable prior to the outcome of the event,” as recited in independent claim 25, as amended herein.

As previously discussed regarding claim 20, as shown in FIG. 1 of Speck, Speck teaches a leaving investor 24 may redeem shares for money prior to the outcome of the event. Speck, therefore, does not teach or suggest purchasing at least one share in favor of a particular outcome of a plurality of potential outcomes for an event at a share price, the share price comprising one of an initial share price set prior to making the at least one share available for purchase and an adjusted share price set after the initial share price is set, wherein the at least one purchased share is non-redeemable prior to the outcome of the event, as recited in claim 25.

Aronson teaches systems and methods for providing fixed-odds and pari-mutuel wagering. A user is allowed to submit a wager to a fixed-odds book or a pari-mutuel pool using an interactive wagering application, or the user is provided with a conditional wagering option where a wager placed with a fixed-odds book that is refused is automatically placed with a pari-mutuel pool. *Aronson et al.* at Abstract; col. 21, lines 10 – col. 22, line 15. Aronson does not disclose the use of shares that can be purchased at a particular share price. Thus, Aronson does not teach or suggest purchasing at least one share in favor of a particular outcome of a plurality of potential outcomes for an event at a share price, the share price comprising one of an initial share price set prior to making the at least one share available for purchase and an adjusted share price set after the initial share price is set, wherein the at least one purchased share is non-redeemable prior to the outcome of the event. Accordingly, Aronson fails to remedy the deficiencies of Speck with respect to at least independent claim 25, as amended herein.

Speck and Aronson also do not teach, suggest, or otherwise render obvious “placing funds for each share purchased in a pari-mutuel wagering pool.” Rather, as previously discussed, Speck allows for shares to be redeemed for money prior to the outcome of the event. Accordingly, if one were to combine the reiterative betting method taught by Speck with a pari-mutuel wagering pool taught by Aronson, the resulting pari-mutuel wagering pool would not comprise funds received for each share purchased at the initial share price and the adjusted share price because some of the funds received for shares purchased at the initial share price would be returned to the leaving investors.

Applicants respectfully assert that Speck and Aronson do not teach, suggest, or otherwise make obvious each and every element of independent claim 25. Applicants, therefore, respectfully request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to claim 25.

Furthermore, the nonobviousness of independent claim 25 precludes a rejection of claim 26, which depends therefrom, because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicants request that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to claim 26, in addition to the rejection to independent claim 25.

Claim 28

New claim 28 is allowable for substantially the same reasons as claim 20.

ENTRY OF AMENDMENTS

The amendments to claims 1, 17, 20, and 25 and new claims 27 and 28 should be entered by the Examiner because the amendments are supported by the as-filed specification and drawings and do not add new matter to the application.

CONCLUSION

Claims 1 through 28 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,



Belinda A. Suwe
Registration No. 61,239
Attorney for Applicants
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: August 17, 2010
JAW/BAS/jrj:lhs